

# The Children's Court

## Information for parents

A child protection practitioner (the worker) from the Department of Health and Human Services (the department) has visited your family and is concerned about your child's safety and development and thinks they are in need of protection.

Legal proceedings (called a protection application) have been commenced by the department in respect of your child. A magistrate at the Children's Court will decide if your child needs protection, and what is in their best interests.

You need to come to court. Attending court can be stressful. You may like to ask a friend or relative to attend court with you for support.

### Where will my child live?

Some children live at home while the Children's Court is making its decision. In other situations, the worker removes children from the situation they believe is unsafe until the matter goes to court and a decision is made about their best interests. If this happens, the worker will discuss with you the possibility of your child staying with a family member or friend. This requires some assessment and checks to be done. If this is not possible, then the child protection worker will discuss other living arrangements with you, such as foster care.

Contact between you and your child will usually occur during this time and may also form part of a court order. In making decisions about contact with your child, the court will consider what is in your child's best interests.

### What if I want my child to live at home?

If you want your child to stay in your care until the magistrate makes a decision about their future, ask your legal representative to ask the magistrate at the court. The magistrate will decide whether this is possible.

### What do I prepare for court?

Read the protection application to find out which court to attend and the date and time of hearing.

Get legal advice and decide whether you want to be legally represented in court.

Your child is not required to attend court unless they express a wish to do so, or the court orders them to attend. Children aged 10 years or older will be legally represented at court, unless the court determines that the child is not mature enough to provide instructions.

Victoria Legal Aid is present at the Court should you need to seek legal representation. Try to arrive at the court about half an hour before the time the court starts so that you can talk with your legal representative.

If you need an interpreter to help you understand or take part in what is happening in court, ask the worker to arrange for an interpreter to be at court with you.

### What happens when I get to court?

The courts can be very busy and you may have to wait before you go into court.

When your child's name is called, you go into court and sit behind the legal representatives' table. You may be able to sit with your child and the worker.

### What happens in court?

The magistrate will want to know about your family situation and why the worker thinks your child is at risk. The magistrate may also ask you and your child for your opinion about what has been said.

If it is not an emergency hearing, the magistrate will be given reports written by the worker (you will also receive a copy of the worker's report and they will discuss the contents with you prior to attending court) and possibly other professionals who know you and your child, and may ask witnesses for their opinions about what has been said.

If you give evidence at court, you are required to tell the truth and answer questions from the solicitors or the magistrate. If you do not understand what is being said, ask for it to be made clear to you.

You should call the magistrate 'Your Honour', or 'Sir' or 'Madam'.

## Will I have to go to court more than once?

Probably, yes. There are usually two or more court hearings to consider each protection application.

For the first court hearing, the magistrate will usually adjourn (put off) the case to another day and decide where your child should live until then.

You can apply to have your child returned home to your care until the court makes its decision about their future care. The magistrate will decide whether this is possible, but will not send your child home if they think that your child may not be safe.

The magistrate may:

- decide whether your child can return home or live with another family member or friend until the date of the full court hearing

or

- order that your child must live in a placement arranged by child protection, such as with a family in foster care or in a residential care unit until the date of the further court hearing.

## What happens at future court hearings?

If you, your child and the worker cannot agree about what is in your child's best interests, then the magistrate will decide if your child is at risk of harm and what actions should be taken. If the magistrate decides that your child is not in need of protection, the case will be dismissed and contact between your family and child protection will end.

If it is decided that your child is in need of protection, the magistrate will decide if a protection order is required and if so, which protection order is most appropriate to protect your child and meet their best interests. The magistrate will explain why they have made this decision.

These orders range from undertakings that allow your child to live with you without the ongoing involvement of Child Protection, to those that mean your child will live away from you with another person (for example, a relative) or the department having responsibility for their day-to-day care.

There are different orders that can be made by the court. The worker or your legal representative can fully explain the court proceedings and orders to you.

## What if I don't understand what is happening?

You can ask the worker or your legal representative to explain what is happening in court, what the order the magistrate makes means to your child and family, and your rights to appeal against the magistrate's decision.

## Where can I get legal advice?

It is important to get legal advice and decide whether you want to be legally represented at court or not. Enquiries about legal assistance may be made to:

- a local lawyer (listed under 'Solicitors' in the *Yellow Pages*)
- Victoria Legal Aid, Melbourne, telephone 1300 792 387
- The Law Institute of Victoria, telephone (03) 9607 9311
- The Victorian Aboriginal Legal Service Co-op Ltd, telephone 1800 064 865
- the Aboriginal Family Violence Prevention & Legal Service Victoria, telephone 1800 105 303
- a local community legal service.

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At the Melbourne, Moorabbin and Broadmeadows Children's Courts there are Legal Aid solicitors who are experts in children's law. They generally represent children following a protection application but, in some cases, may represent parents. Where your child is already represented by a Legal Aid solicitor and you are also entitled to legal aid, then they will arrange for a private solicitor to represent you on behalf of Legal Aid. In country areas, you can contact your local court about arrangements for legal representation.

For further information, contact your Department of Health and Human Services office.

## Contact information

The child protection practitioner's name is:

Their Department of Health and Human Services office is:

Their contact number is:

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